REMARKS/ARGUMENTS

Claims 1-17 are pending and rejected on the grounds of non statutory-type double patenting and 35 U.S.C. § 103(a).

Applicants thank Examiners Royds and Marschel for the courtesy of an interview extended to Applicants' representatives on October 18, 2007. During the interview, all of Applicants' claims were discussed and Examiners Royds and Marschel reacted favorably to Applicants' arguments pointing out that neither *Todd* nor *Kolter* teach insoluble solid particles of salts of ascorbic acid as required by claim 1. The following comments expand on the discussion with Royds and Marschel.

Todd teaches a suspension of insoluble solid ascorbic acid particles (abstract). However, *Todd* does not teach or suggest solid particles of salts of ascorbic acid. On the contrary, *Todd* specifically teaches the use of commercially available "ascorbic acid" but not any ascorbic acid salts (Examples, i.e. col. 8, lines 28-30). The only ascorbic acid derivatives that *Todd* mentions are fat-soluble esters of ascorbic acid (col. 1, lines 37-38 and col. 9, lines 34-36), which are not salts of ascorbic acid.

Furthermore, *Kolter* teaches <u>aqueous</u> solubilizates of carotenoids and vitamins (abstract). *Kolter* does mention ascorbic acid derivatives as a possible additional element of the solubilizates (col. 1, lines 32-35). Even though, *Kolter's* examples show that sodium ascorbate is used in the process of making the solubilizate, the sodium ascorbate is used in solution form with water and free ascorbic acid (see, for example, Examples 1-3). Both sodium ascorbate and free ascorbic acid are readily water soluble and therefore would not form insoluble solid particles of sodium ascorbate. Accordingly, *Kolter* does not teach or suggest insoluble solid particles of salts of ascorbic acid.

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Accordingly, neither *Todd* nor *Kolter* nor the combination of the two teach or suggest solid particles of salts of ascorbic acid in a dispersant wherein the salts of ascorbic acid are insoluble as claimed by Applicants (see claim 1).

Moreover, the data on page 12 of Applicants' specification points out the advantageous properties of suspensions of the invention using solid particles of salts of ascorbic acid as opposed to using solid ascorbic acid particles like those of *Todd* (please note that EP 590029 is equivalent to US 5,230,836). Applicants' suspension provides improved retinol recovery after varying periods of storage (see pg. 12 Examples). Additionally, Applicants' suspension provides improved recovery at different storage temperatures, and with and without protective gas (see table notation under Examples).
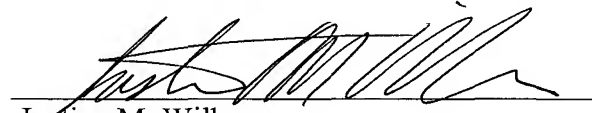
Regarding the double patenting rejection, a terminal disclaimer can be filed, if the claims in the present application remain obvious in view of the claims of the one cited U.S. patent application (10/515,636) at the time of allowance of the present application. Furthermore, additional amendments (if needed for allowance of these claims) may eliminate the double-patenting rejection, making the filing of a Terminal Disclaimer at this time premature. Indeed, M.P.E.P. § 804.02 IV states that, prior to issuance, it is necessary to disclaim each one of the double patenting references applied. Hence, Applicants respectfully request that the examiner contact the undersigned should the present amendments and arguments be accepted and should the present application be otherwise in a condition for allowance. At that time, a terminal disclaimer if warranted can be supplied to expedite issuance of this case.

For the reasons discussed above, Applicants submit that all now-pending claims are in condition for allowance. Applicants respectfully request the withdrawal of the rejections and passage of this case to issue.

Respectfully submitted,

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